

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ZIEBART INTERNATIONAL
CORPORATION, a Michigan
corporation, ZIEBART CORPORATION,
a Michigan corporation,

Plaintiffs,

Case No. 12-CV-12001
HON. GEORGE CARAM STEEH

vs.

WAGGONER ENTERPRISES, INC.,
A Minnesota corporation, and JAMES
C. WAGGONER, JR., an individual,

Defendants.

ORDER GRANTING PLAINTIFFS' MOTION FOR CONTEMPT (DOC. # 19)

Before the court is plaintiffs' motion for contempt, filed August 21, 2012.¹

Defendants did not respond to the motion. The court issued an order to show cause in this matter on September 20, 2012, requiring defendants to show cause why they should not be found in contempt of its July 12, 2012 default judgment and order for permanent injunction (Doc. # 16). According to plaintiffs, defendants continue to use plaintiffs' trademarks, proprietary material, and the like and have completely failed to comply with the July 12, 2012 order.

¹The court finds an oral hearing on this motion to be unnecessary and hereby orders the motion's submission and determination without oral hearing, in accordance with E.D. MI LR 7.1(e)(2).

The docket indicates personal service of the summons and complaint on defendants at the business address on record, and includes certificates of service on defendants for each subsequent order in the case. Despite this record, the court has received nothing from defendants in response to its orders.

The court is in receipt of plaintiffs' recently filed supplemental affidavit, to which photographs of defendants' business, displaying Ziebart trademarks, are attached. It thus appears that contempt and sanctions are appropriate in this case.

Accordingly, the court hereby finds defendants in contempt of its July 12, 2012 default judgment and order for permanent injunction and orders as follows:

From and after January 7, 2013, and for each day thereafter, defendants shall pay to plaintiffs a civil penalty of \$100.00 per day, continuing until defendants have complied with court orders or for 28 days, whichever is first. If defendants have not complied with this court's orders after 28 days, the civil penalty against defendants shall increase to \$500.00 per day and continue for an additional 28 days. Persistent failure to comply with this order by defendants will result in additional penalties, including additional fines and/or incarceration and reimbursement of plaintiffs' attorney fees. Plaintiffs shall file a status report on the last day of each twenty-eight day period indicating whether defendants have complied with this order.

IT IS FURTHER ORDERED that plaintiffs shall effect personal service on defendants of (1) this order; (2) plaintiffs' motion for contempt; and (3) a copy of the July 12, 2012 default judgment and order for permanent injunction, on or before

December 24, 2012; plaintiffs shall file a proof of service with the court evidencing the same.

IT IS SO ORDERED.

Dated: December 11, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record and on James C. Waggoner, Jr., 635 Franklin Avenue, St. Cloud, MN 56304 and on Waggoner Enterprises, Inc., 635 Franklin Avenue, St. Cloud, MN 56304 on December 11, 2012, by electronic and/or ordinary mail.

s/Barbara Radke
Deputy Clerk